S.B. CIVIL WRIT PETITION No.4700/99
RAM LAL & Ors. V/s MURLIDHAR & Ors.

5.2.2007

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Giriraj Bardhar for the petitioners.
Shri Mohan Choudhary for the respondents.

Under challenge in this writ petition the order of the Gram Panchayat Badhal dated 23.5.1984, Patta dated 13.5.1998 issued by it in favour of private respondents and the order dated 14.7.1999 passed by the Addl. Collector, IInd, Jaipur, whereby the revision petition was dismissed. The petitioners are aggrieved by allotment of land and issuance of Patta in favour of private respondents No. 1 to 4.

I have heard Shri Giriraj Bardhar, learned counsel for the petitioners and Shri Mohan Choudhary, learned counsel for the respondents.

The grievance of the petitioners in substance is that the Gram Panchayat in making sale of 926 yrds. of land as per the decision dated 23.5.84, has not complied with rules 253 to 266 of the

Rajasthan Panchayat Rules, 1961. Prior to making the allotment in question, no notice inviting objection from general public was issued nor was any notice affixed on a public place and entire proceedings were conducted in a clandestine manner. It is stated that one of the respondents was Panch of the Gram Panchayat at the relevant time. The private respondents were not in possession of the land in dispute. It is argued that this fact has been further fortified from the Judgment or the court of Judicial Magistrate, Ist class, Sambher Lake dated 16.12.2000 whereby he rejected the complaint filed by the private respondents for the offence u/s 447, 323 and 427 IPC.

On the other hand, Shri Bardhar refuted all these arguments and contended that the land in question was in possession of the private respondents inasmuch as Shri Murlidhar was not a Panch when the application for allotment was made on 16.1.1980. The Gram Panchayat, issued notice for inviting objection for 8.12.1983 and thereafter the

Gram Panchayat by its resolution dated 23.1.84 constituted a committee of Panches to inspect the site and inspection report was produced before it on 23.3.84 on which date the decision to sell the plot in question to the private respondents was approved and consequenly Patta was issued.

He, therefore, prays that no illegality has been committed either by the Gram Panchayat or the Addl. Collector in passing the impugned orders. The writ petition may therefore be dismissed.

I have given my thoughtful consideration to the arguments advanced by the learned counsel for the parties and perused the material on record.

On perusal of the judgment passed by the learned Addl. Collector, I find that neither any specific finding has been given nor the argument whether or not the notice inviting objection was issued by Gram Panchayat has been discussed. It has also not been discussed as to if the land in question was in possession of the private

respondents. From the order passed by the Judicial Magistrate, Sambhar Lake dated 16.12.2000, it is revealed that doubts have been expressed on the questions with regard to the possession of the private respondent over disputed land but that being a subsequent order obviously could not have been examined by the learned Addl. Collector in his order which was passed earlier. The respondents have now before this court, produced copies of the electricity bills and water bills to prove their possession but the petitioners denied that these bills pertaining to the land in question. Certain photo copies have also been produced to prove such possession.

In my considered view, the matter is required to be examined at the level of the revisional authority which has not dealt with the issues raised before in the manner they were required to be dealt with. In the situation, while setting aside the order dated 14.7.99, I remand the matter again to the Addl. Collector, IInd, District Jaipur for deciding the revision petition afresh after

giving opportunity of hearing to both the parties and taking into consideration all the arguments raised herein and that may be now raised before him. The parties shall be at liberty to raise any arguments that they may desire to raise before them and produce copies of any documents/records in support of the respective claims. The parties are directed to appear before the revisional authority on 12.3.2007 along with certified copy of this judgment.

With these directions, this writ petition is allowed.

(Mohammad Rafiq),J.

Chauhan/